

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: CORN BELT POWER COOPERATIVE	DOCKET NO. E-21519
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ORDER SCHEDULING SHOW CAUSE HEARING

(Issued June 30, 2003)

On May 28, 2003, Corn Belt Power Cooperative (Corn Belt) notified the Safety and Engineering Section of the Utilities Board (Board) that it had converted 0.5 miles of single circuit line to double circuit line without first obtaining a franchise to construct the line pursuant to Iowa Code chapter 478. On June 10, 2003, Corn Belt filed a petition for amendment to construct and operate this 0.5 miles of double circuit 72.5 kV (69 kV nominal) electric transmission line in Hamilton County, Iowa. The proceeding is identified as Docket No. E-21519. Corn Belt has acquired all necessary easements for the portion of the line located on private property.

In its petition, Corn Belt states the additional double circuit was necessary to tie its new switching station to the existing transmission network and that the additional circuit was part of an overall project that included the switching station and reconductoring 10.5 miles of transmission line. Corn Belt, in its petition, alleges that it simply overlooked the fact that a petition to amend the existing franchise was necessary prior to construction of the double circuit portion of the route. Corn Belt

states that it became aware of the omission when new engineering specifications for the 10.5 miles of reconductored transmission line were being prepared pursuant to 199 IAC 11.5(10). Corn Belt notes that while one alternative would have been to remove the 0.5 miles of line prior to seeking a franchise for the line; this alternative was not practical because it would adversely impact service reliability.

Iowa Code chapter 478 governs the franchise of electric transmission lines.

Iowa Code § 478.1 provides, in part:

A person shall not construct, erect, maintain, or operate a transmission line, wire, or cable which is capable of operating at an electric voltage of sixty-nine kilovolts or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current without first procuring from the utilities board within the utilities division of the department of commerce a franchise granting authority as provided in this chapter.

Iowa Code chapter 478 provides for a wide range of remedies for violation of its provisions, including injunctive relief or possible criminal sanctions. Iowa Code §§ 478.22 and 478.24. The Board does not believe it is necessary to seek such relief in this case. In addition, Iowa Code § 478.29 provides that “[a] person who violates a provision of this chapter is subject to civil penalty, which may be levied by the board, of not more than one hundred dollars per violation or one thousand dollars per day for a continuing violation, whichever is greater.”

The provisions of Iowa Code chapter 478 are designed to safeguard the interests of ratepayers, adjoining landowners, and the public generally by providing that before granting a franchise, the Board must determine, among other things, that

the proposed line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. Iowa Code § 478.4. Therefore, the Board will schedule a hearing for Corn Belt to show cause why civil penalties should not be imposed by reason of the alleged violation of Iowa Code chapter 478 outlined in this order.

The Board notes that this is not the first instance where Corn Belt failed to acquire a franchise prior to line construction. The Board previously assessed Corn Belt a civil penalty of \$600 for commencing construction prior to a franchise petition being granted by the Board. Corn Belt Power Cooperative, "Order Canceling Hearing, Accepting Compromise, and Assessing Civil Penalty," Docket No. E-21570 (2-1-02). In that order, the Board put all owners of electric lines requiring franchises on notice that commencing construction without a franchise was not acceptable.

IT IS THEREFORE ORDERED:

1. A hearing shall be held for Corn Belt Power Cooperative to show cause why civil penalties should not be imposed for alleged violations of Iowa Code chapter 478 at 9 a.m. on September 3, 2003. The hearing shall be held in the Board's hearing room at 350 Maple Street, Des Moines, Iowa 50319-0069. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

2. Any prehearing motions shall be filed on or before August 11, 2003.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 30th day of June, 2003.